

1           **SECTION 128.** 77.58 (3) (b) of the statutes is amended to read:

2           77.58 (3) (b) For purposes of the sales tax the return shall show the gross  
3   receipts sales price of the seller during the preceding reporting period. For purposes  
4   of the use tax, in case of a return filed by a retailer, the return shall show the total  
5   sales purchase price of the property or taxable services sold, the storage, use or  
6   consumption of which became subject to the use tax during the preceding reporting  
7   period. In case of a sales or use tax return filed by a purchaser, the return shall show  
8   the total sales purchase price of the property and taxable services purchased, the  
9   storage, use or consumption of which became subject to the use tax during the  
10   preceding reporting period. The return shall also show the amount of the taxes for  
11   the period covered by the return and such other information as the department  
12   deems necessary for the proper administration of this subchapter.

13           **SECTION 129.** 77.58 (6) of the statutes is amended to read:

14           77.58 (6) For the purposes of the sales tax ~~gross receipts~~, the sales price from  
15   rentals or leases of tangible personal property shall be reported and the tax paid in  
16   accordance with such rules as the department prescribes.

17           **SECTION 130.** 77.585 of the statutes is created to read:

18           **77.585 Return adjustments.** (1) In this section, "bad debt" means the  
19   portion of the sales price or purchase price that the seller has reported as taxable  
20   under this subchapter and that the seller may claim as a deduction under section 166  
21   of the Internal Revenue Code. "Bad debt" includes worthless checks, worthless credit  
22   card payments, and uncollectible credit accounts. "Bad debt" does not include  
23   financing charges or interest, sales or use taxes imposed on the sales price or  
24   purchase price, uncollectible amounts on property that remains in the seller's  
25   possession until the full sales price or purchase price is paid, expenses incurred in

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1 attempting to collect any debt, debts sold or assigned to 3rd parties for collection, and  
2 repossessed property.

3 ~~(2) A seller is relieved from liability for the sales tax or use tax imposed under~~  
4 ~~this subchapter insofar as the measure of the tax is represented by bad debt that has~~  
5 ~~been charged off for federal income tax purposes or, in the case of a seller who is not~~  
6 ~~required to file a federal income tax return, bad debt that may be charged off for~~  
7 ~~federal income tax purposes. If the seller has previously paid the tax, the seller may,~~  
8 ~~within 12 months from the month in which the bad debt is either charged off for~~  
9 ~~federal income tax purposes or, in the case of a seller who is not required to file a~~  
10 ~~federal income tax return, could have been charged off for federal income tax~~  
11 ~~purposes, take a deduction from the measure of the tax the amount of the bad debt.~~  
12 ~~If any such bad debt is subsequently collected in whole or in part by the seller, the~~  
13 ~~amount collected shall be included in the first return filed after such collection and~~  
14 ~~the tax shall be paid with the return.~~

15 (3) For purposes of computing a bad debt deduction or reporting a payment  
16 received on a previously claimed bad debt, any payment made on a debt or on an  
17 account is applied first to the price of the property or service sold, and the  
18 proportionate share of the sales tax on that property or service, and then to interest,  
19 service charges, and other charges related to the sale.

20 (4) A seller may obtain a refund of the tax collected on any bad debt amount  
21 that exceeds the amount of the seller's taxable sales ~~in the 12 months following the~~  
22 ~~month in which the bad debt is either charged off for federal income tax purposes or,~~  
23 ~~in the case of a seller who is not required to file a federal income tax return, could~~  
24 ~~have been charged off for federal income tax purposes.~~ on which the

as provided under s. 77.59(4), except that the period for making a claim  
as determined under s. 77.59(4) begins on the date ~~that return~~ <sup>on which</sup> the bad debt  
could be claimed would have been ~~due to~~ the department under s. 77.58 <sup>required to</sup> be submitted to

deducted under  
sub. (2)

1 (5) If a seller is using a certified service provider, the certified service provider  
2 may claim a bad debt deduction under this section on the seller's behalf if the seller  
3 has not claimed and will not claim the same deduction. A certified service provider  
4 who receives a bad debt deduction under this section shall credit that deduction to  
5 the seller and a certified service provider who receives a refund under this section  
6 shall submit that refund to the seller.

7 SECTION 131. 77.59 (2m) of the statutes is created to read:

8 77.59 (2m) The department may audit, or may authorize others to audit, sellers  
9 and certified service providers who are registered with the department pursuant to  
10 the agreement, as defined in s. 77.65 (2) (a).

11 SECTION 132. 77.59 (9) of the statutes is amended to read:

12 77.59 (9) If any person fails to file a return, the department shall make an  
13 estimate of the amount of the ~~gross receipts~~ sales price of the ~~person~~ <sup>person's sales</sup>, or, as the case  
14 may be, of the amount of the total ~~sales~~ purchase price of tangible personal property  
15 or taxable service sold or purchased by the person, the sale by or the storage, use or  
16 other consumption of which in this state is subject to sales or use tax. The estimate  
17 shall be made for the period in respect to which the person failed to make a return  
18 and shall be based upon any information which is in the department's possession or  
19 may come into its possession. Upon the basis of this estimate the department shall  
20 compute and determine the amount required to be paid to the state, adding to the  
21 sum thus arrived at a penalty equal to 25% thereof. One or more such determinations  
22 may be made for one or for more than one period. When a business is discontinued  
23 a determination may be made at any time thereafter, within the periods specified in  
24 sub. (3), as to liability arising out of that business.

25 SECTION 133. 77.59 (9n) of the statutes is created to read:

1 77.59 (9n) No seller or certified service provider is liable for any deficiency or  
2 refund under this subchapter that is the result of the seller or certified service  
3 provider relying on erroneous information contained in a database maintained  
4 under s. 73.03 (59) (d) or (e).

5 SECTION 134. 77.60 (13) of the statutes is created to read:

6 77.60 (13) A person who uses any of the following documents in a manner that  
7 is prohibited by or inconsistent with this subchapter, or provides incorrect  
8 information to a seller or certified service provider related to the use of such  
9 documents or regarding an exemption to the taxes imposed under this subchapter,  
10 shall pay a penalty of \$250 for each invoice or bill of sale related to the prohibited or  
11 inconsistent use or incorrect information:

12 (a) ~~Any~~ <sup>exemption</sup> certificate described under s. 77.52 (13).

13 (b) A direct pay permit under s. 77.52 (17m).

14 (c) A direct mail form, as defined in s. 77.522 (1) (a) 1.

15 (d) ~~A~~ <sup>multiple point-of-use</sup> exemption form, as defined in s. 77.522 (1) (a) 2.

16 SECTION 135. 77.61 (1) (a) of the statutes is renumbered 77.61 (1) (am).

17 SECTION 136. 77.61 (1) (ag) of the statutes is created to read:

18 77.61 (1) (ag) In this subsection, "Wisconsin retailer" means a retailer who  
19 registers with the department to collect the taxes imposed under this subchapter and  
20 subch. V.

21 SECTION 137. 77.61 (1) (b) of the statutes is amended to read:

22 77.61 (1) (b) In the case of a motor vehicle, aircraft, boat, or mobile home  
23 purchased from a licensed Wisconsin motor vehicle dealer retailer, the registrant  
24 shall present proof that the tax has been paid to such dealer retailer.

25 SECTION 138. 77.61 (1) (c) of the statutes is amended to read:

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1           77.61 (1) (c) In the case of motor vehicles, boats, snowmobiles, mobile homes  
2           not exceeding 45 feet in length, trailers, semitrailers, all-terrain vehicles or aircraft  
3           registered or titled, or required to be registered or titled, in this state purchased from  
4           persons who are not Wisconsin boat, trailer or semitrailer dealers, licensed  
5           Wisconsin aircraft, motor vehicle or mobile home dealers or registered Wisconsin  
6           snowmobile or all-terrain vehicle dealers retailers, the purchaser shall file a sales  
7           tax return and pay the tax prior to registering or titling the motor vehicle, boat,  
8           snowmobile, mobile home not exceeding 45 feet in length, trailer, semitrailer,  
9           all-terrain vehicle or aircraft in this state.

10           **SECTION 139.** 77.61 (3) of the statutes is repealed.

11           **SECTION 140.** 77.61 (3m) of the statutes is created to read:

12           77.61 (3m) A retailer shall use a straight mathematical computation ~~under~~  
13           ~~rules promulgated by the department,~~ to determine the amount of the tax that the  
14           retailer may collect from the retailer's customers. The retailer shall calculate the tax  
15           amount by combining the applicable tax rates under this subchapter and subch. V  
16           and multiplying the combined tax rate by the sales price or purchase price of each  
17           item or invoice, as appropriate. The retailer shall calculate the tax amount to the 3rd  
18           decimal place, disregard tax amounts of less than 0.5 cent, and consider tax amounts  
19           of at least 0.5 cent but less than 1 cent to be an additional cent. The use of a straight  
20           mathematical computation, as provided in this subsection, shall not relieve the  
21           retailer from liability for payment of the full amount of the tax levied under ss. 77.51  
22           to 77.62.

23           **SECTION 141.** 77.61 (5m) of the statutes is created to read:

24           77.61 (5m) (a) In this subsection, "personally identifiable information" has the  
25           meaning given in s. 19.62 (5).

1 (b) A certified service provider may use personally identifiable information as  
2 necessary only for the administration of its system to perform a seller's sales and use  
3 tax functions and shall provide consumers clear and conspicuous notice of its practice  
4 regarding such information, including how it collects the information, how it uses the  
5 information, and under what circumstances it discloses the information.

6 (c) A certified service provider may retain personally identifiable information  
7 only to verify exemption claims, to investigate fraud, and to ensure its system's  
8 reliability. A certified service provider who retains an individual's personally  
9 identifiable information shall provide reasonable notice of such retention to the  
10 individual and shall provide the individual reasonable access to the information and  
11 an opportunity to correct inaccurate information. If any person, other than a state  
12 that is a signatory to the agreement, as defined in s. 77.65 (2) (a), requests access to  
13 an individual's personally identifiable information, the certified service provider  
14 shall make a reasonable and timely effort to notify the individual of the request.

15 (d) A certified service provider shall provide sufficient technical, physical, and  
16 administrative safeguards to protect personally identifiable information from  
17 unauthorized access and disclosure.

18 **SECTION 142.** 77.61 (16) of the statutes is created to read:

19 77.61 (16) Any person who remits taxes and files returns under this subchapter  
20 may designate ~~an agent, in writing,~~ *a certified service provider* to remit taxes and file returns with the  
21 department, ~~subject to the department's approval.~~ *in a manner prescribed by*  
*the department*

22 **SECTION 143.** 77.63 (1) (am) of the statutes is created to read:

23 77.63 (1) (am) A seller or certified service provider who uses a certified  
24 automated system, as defined in s. 77.524 (1) (a), or software certified by the  
25 department in accordance with the streamlined sales and use tax agreement to

1 collect the sales tax and use tax imposed under this subchapter may retain a portion  
2 all such collected taxes in an amount determined by the department and by contracts  
3 that the department enters into pursuant to the streamlined sales and use tax  
4 agreement.

5 ~~SECTION 144. 77.65 (2) (d) of the statutes is amended to read:~~

6 ~~77.65 (2) (d) "Sales tax" means the tax imposed under ss. 77.52, 77.57, and~~  
7 ~~77.71 (1).~~

8 SECTION 145. 77.66 of the statutes is created to read:

9 77.66 Amnesty for new registrants. (1) A seller is not liable for uncollected  
10 and unpaid taxes, including penalties and interest, imposed under this subchapter  
11 and subch. V on sales made to purchasers in this state before the seller registers  
12 under par. (a), if all of the following apply:

13 (a) The seller registers with the department, in a manner that the department  
14 prescribes, to collect and remit the taxes imposed under this subchapter and subch.

15 V on sales to purchasers in this state in accordance with the agreement, as defined  
16 in s. 77.65 (2) (a). *no later than 365 days after the effective date of this*

17 (b) The seller registers under par. (a) *before January 1, 2005. [revisor insert date]*

18 (c) The seller was not registered to collect and remit the taxes imposed under  
19 this subchapter and subch. V during the 365 consecutive days immediately before

20 *January 1, 2004.*

21 (d) The seller has not received an audit notice from the department or from a  
22 state that is a signatory to the agreement, as defined in s. 77.65 (2) (a), and is not  
23 subject to an audit or involved in an appeal of an audit at the time that the seller  
24 registers under par. (a).

*the effective date of this state's participation in the agreement  
under s. 77.65(2)(a).... [revisor insert date]*

1 (e) The seller is not under investigation for fraud or misrepresentation of a  
2 material fact.

3 (f) The seller collects and remits the taxes imposed under this subchapter and  
4 subch. V on sales to purchasers in this state for at least 3 consecutive years after the  
5 date on which the seller registers under par. (a).

6 (2) Subsection (1) does not apply to taxes imposed under this subchapter and  
7 subch. V that are due from the seller for purchases made by the seller.

8 (3) The statute of limitations for determining a tax liability under s. 77.59(3)  
9 shall not run during the 3 years described under sub. (1) (f).

10 **SECTION 146.** 77.70 of the statutes is amended to read:

11 **77.70 Adoption by county ordinance.** Any county desiring to impose county  
12 sales and use taxes under this subchapter may do so by the adoption of an ordinance,  
13 stating its purpose and referring to this subchapter. The county sales and use taxes  
14 may be imposed only for the purpose of directly reducing the property tax levy and  
15 only in their entirety as provided in this subchapter. That ordinance shall be  
16 effective on the first day of January, the first day of April, the first day of July or the  
17 first day of October. A certified copy of that ordinance shall be delivered to the  
18 secretary of revenue at least 120 days prior to its effective date. The repeal of any  
19 such ordinance shall be effective on December 31. A certified copy of a repeal  
20 ordinance shall be delivered to the secretary of revenue at least ~~60~~ 120 days before  
21 the effective date of the repeal.

22 **SECTION 147.** 77.705 of the statutes is amended to read:

23 **77.705 Adoption by resolution; baseball park district.** A local  
24 professional baseball park district created under subch. III of ch. 229, by resolution  
25 under s. 229.68 (15), may impose a sales tax and a use tax under this subchapter at



1 a rate of no more than 0.1% of the gross receipts or sales price. Those taxes may be  
2 imposed only in their entirety. The resolution shall be effective on the first day of the  
3 first month January 1, April 1, July 1, or October 1 that begins at least 30 ~~60~~<sup>120</sup> days  
4 after the adoption of the resolution.

5 SECTION 148. 77.706 of the statutes is amended to read:

6 77.706 Adoption by resolution; football stadium district. A local  
7 professional football stadium district created under subch. IV of ch. 229, by  
8 resolution under s. 229.824 (15), may impose a sales tax and a use tax under this  
9 subchapter at a rate of 0.5% of the gross receipts or sales price. Those taxes may be  
10 imposed only in their entirety. The imposition of the taxes under this section shall  
11 be effective on the first day of the first month January 1, April 1, July 1, or October  
12 1 that begins at least 30 ~~60~~<sup>120</sup> days after the certification of the approval of the  
13 resolution by the electors in the district's jurisdiction under s. 229.824 (15).

14 SECTION 149. 77.707 (1) of the statutes is amended to read:

15 77.707 (1) Retailers and the department of revenue may not collect a tax under  
16 s. 77.705 for any local professional baseball park district created under subch. III of  
17 ch. 229 after the last day of the calendar quarter during that is at least 120 days from  
18 the date on which the local professional baseball park district board makes a  
19 certification to the department of revenue under s. 229.685 (2), except that the  
20 department of revenue may collect from retailers taxes that accrued before the day  
21 after the last day of that calendar quarter and fees, interest and penalties that relate  
22 to those taxes.

23 SECTION 150. 77.707 (2) of the statutes is amended to read:

24 77.707 (2) Retailers and the department of revenue may not collect a tax under  
25 s. 77.706 for any local professional football stadium district created under subch. IV

1 of ch. 229 after the last day of the calendar quarter during that is at least 120 days  
2 from the date on which the local professional football stadium district board makes  
3 all of the certifications to the department of revenue under s. 229.825 (3), except that  
4 the department of revenue may collect from retailers taxes that accrued before the  
5 day after the last day of that calendar quarter and fees, interest and penalties that  
6 relate to those taxes.

7 **SECTION 151.** 77.71 (1) of the statutes is amended to read:

8 77.71 (1) For the privilege of selling, licensing, leasing or renting tangible  
9 personal property and for the privilege of selling, performing or furnishing services  
10 a sales tax is imposed upon retailers at the rate of 0.5% in the case of a county tax  
11 or at the rate under s. 77.705 or 77.706 in the case of a special district tax of the ~~gross~~  
12 ~~receipts~~ <sup>sales price</sup> from the sale, licensing, lease or rental of tangible personal property, except  
13 property taxed under sub. (4), sold, licensed, leased or rented at retail in the county  
14 or special district or from selling, performing or furnishing services described under  
15 s. 77.52 (2) in the county or special district.

16 **SECTION 152.** 77.71 (2) of the statutes is amended to read:

17 77.71 (2) An excise tax is imposed at the rate of 0.5% in the case of a county tax  
18 or at the rate under s. 77.705 or 77.706 in the case of a special district tax of the sales  
19 purchase price upon every person storing, using or otherwise consuming in the  
20 county or special district tangible personal property or services if the property or  
21 service is subject to the state use tax under s. 77.53, except that a receipt indicating  
22 that the tax under sub. (1), (3) or (4) has been paid relieves the buyer of liability for  
23 the tax under this subsection and except that if the buyer has paid a similar local tax  
24 in another state on a purchase of the same property or services that tax shall be  
25 credited against the tax under this subsection and except that for motor vehicles that

1 are used for a purpose in addition to retention, demonstration or display while held  
2 for sale in the regular course of business by a dealer the tax under this subsection  
3 is imposed not on the sales purchase price but on the amount under s. 77.53 (1m).

4 SECTION 153. 77.71 (3) of the statutes is amended to read:

5 77.71 (3) An excise tax is imposed upon a contractor engaged in construction  
6 activities within the county or special district, at the rate of 0.5% in the case of a  
7 county tax or at the rate under s. 77.705 or 77.706 in the case of a special district tax  
8 of the sales purchase price of tangible personal property that is used in constructing,  
9 altering, repairing or improving real property and that becomes a component part  
10 of real property in that county or special district, except that if the contractor has  
11 paid the sales tax of a county in the case of a county tax or of a special district in the  
12 case of a special district tax in this state on that property, or has paid a similar local  
13 sales tax in another state on a purchase of the same property, that tax shall be  
14 credited against the tax under this subsection.

15 SECTION 154. 77.71 (4) of the statutes is amended to read:

16 77.71 (4) An excise tax is imposed at the rate of 0.5% in the case of a county tax  
17 or at the rate under s. 77.705 or 77.706 in the case of a special district tax of the sales  
18 purchase price upon every person storing, using or otherwise consuming a motor  
19 vehicle, boat, snowmobile, mobile home not exceeding 45 feet in length, trailer,  
20 semitrailer, ~~all terrain vehicle~~ or aircraft, if that property must be registered or  
21 titled with this state and if that property is to be customarily kept in a county that  
22 has in effect an ordinance under s. 77.70 or in a special district that has in effect a  
23 resolution under s. 77.705 or 77.706, except that if the buyer has paid a similar local  
24 sales tax in another state on a purchase of the same property that tax shall be  
25 credited against the tax under this subsection.

*restore*

*Sec. # 77.72 (4th) of the statutes is repealed. 77.72  
number and*

1 SECTION 155. 77.72 (1) of the statutes is amended to read:

2 ~~77.72 (1) GENERAL RULE FOR PROPERTY.~~ For the purposes of this subchapter, all  
3 retail sales of tangible personal property are completed at the time when, and the  
4 place where, the seller or the seller's agent transfers possession to the buyer or the  
5 buyer's agent. In this subsection, a common carrier or the U.S. postal service is the  
6 agent of the seller, regardless of any f.o.b. point and regardless of the method by  
7 which freight or postage is paid. Rentals and leases of property, except property  
8 under sub. (2), have a situs at the location of that property as provided in s. 77.522.

9 SECTION 156. 77.72 (2) *are* of the statutes *are* repealed.  
*and (3)*

10 ~~SECTION 157. 77.72 (3) of the statutes is amended to read:~~

11 77.72 (3) SERVICES. (a) *General rule.* Except as provided in par. (b), services  
12 have a situs at the location where they are furnished ~~determined~~ under s. 77.522.

13 (b) *Exceptions.* A communication service has a situs where the customer is  
14 billed for the service if the customer calls collect or pays by credit card. Services  
15 subject to s. 77.52 (2) (a) 5. b. have a situs at the customer's place of primary use of  
16 the services, as determined under 4 USC 116 to 126, as amended by P.L. 106-252.  
17 Towing services have a situs at the location to which the vehicle is delivered. Services  
18 performed on tangible personal property have a situs at the location where the  
19 property is delivered to the buyer.

20 SECTION 158. 77.77 (1) of the statutes is amended to read:

21 77.77 (1) The ~~gross receipts~~ sales price from services subject to the tax under  
22 s. 77.52 (2) ~~are~~ is not subject to the taxes under this subchapter, and the incremental  
23 amount of tax caused by a rate increase applicable to those services is not due, if those  
24 services are billed to the customer and paid for before the effective date of the county

ordinance, special district resolution or rate increase, whether the service is furnished to the customer before or after that date.

**SECTION 159.** 77.785 (1) of the statutes is amended to read:

77.785 (1) All retailers shall collect and report the taxes under this subchapter on the ~~gross receipts~~ sales price from leases and rentals of property under s. 77.71 (4).

**SECTION 160.** 77.785 (2) of the statutes is amended to read:

77.785 (2) Prior to registration or titling, a retailer of a boat, ~~all terrain vehicle, trailer and semi-trailer dealers and licensed aircraft, motor vehicle, or mobile home and snowmobile dealers~~ shall collect the taxes under this subchapter on sales of items under s. 77.71 (4). The ~~dealer~~ retailer shall remit those taxes to the department of revenue along with payments of the taxes under subch. III.

**SECTION 161.** 77.98 of the statutes is amended to read:

**77.98 Imposition.** A local exposition district under subch. II of ch. 229 may impose a tax on the retail sale, except sales for resale, within the district's jurisdiction under s. 229.43 of ~~products~~ food and food ingredients, as defined in s. 77.54 (1), (4), (7) (a), (7) (m), (9), (9a) or (20) (c) 5, 2001 Stats. that are subject to a tax under s. 77.54 (20) (c) 1. to 3., and not exempt from the sales tax under s. 77.54 (1), (4), (7) (a), (7) (m), (9), (9a) or (20) (c) 5, 2001 Stats.

**SECTION 162.** 77.981 of the statutes is amended to read:

**77.981 Rate.** The tax under s. 77.98 is imposed on the sale of taxable products at the rate of 0.25% of the ~~gross receipts~~ sales price, except that the district, by a vote of a majority of the authorized members of its board of directors, may impose the tax at the rate of 0.5% of the ~~gross receipts~~ sales price. A majority of the authorized members of the district's board may vote that, if the balance in a special debt service reserve fund of the district is less than the requirement under s. 229.50 (5), the tax

s. 77.54 (20) (c) 5, 2001 Stats.  
and

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1 rate under this subchapter is 0.5%. The 0.5% rate shall be effective on the next  
2 January 1, April 1, July 1 or October 1, and this tax is irrevocable if any bonds issued  
3 by the district and secured by the special debt service reserve fund are outstanding.

4 **SECTION 163.** 77.982 (2) of the statutes is amended to read:

5 77.982 (2) Sections 77.51 (4) (a), (b) 1., 2. and 4., (c) 1. to 3. and (d), (14) (a) to  
6 (f), (j) and (k) and, (14g), and (15a), 77.52 (3), (6), (13), (14), (18), and (19), 77.522,  
7 ~~77.523 (2)~~ 77.58 (1) to (5) and (7), 77.59, 77.60, 77.61 (2), (5), (8), (9), and (12) to (14),  
8 and 77.62, as they apply to the taxes under subch. III, apply to the tax under this  
9 subchapter. Sections 77.72 (1) and 77.73, as they apply to the taxes under subch. V,  
10 apply to the tax under this subchapter.

11 **SECTION 164.** 77.99 of the statutes is amended to read:

12 **77.99 Imposition.** A local exposition district under subch. II of ch. 229 may  
13 impose a tax at the rate of 3% of the ~~gross receipts~~ sales price on the rental, but not  
14 for rental and not for rental as a service or repair replacement vehicle, within the  
15 district's jurisdiction under s. 229.43, of Type 1 automobiles, as defined in s. 340.01  
16 (4) (a), by establishments primarily engaged in short-term rental of passenger cars  
17 without drivers, for a period of 30 days or less, unless the sale is exempt from the sales  
18 tax under s. 77.54 (1), (4), (7) (a), (7m), (9) or (9a). If the state makes a payment under  
19 s. 229.50 (7) to a district's special debt service reserve fund, a majority of the district's  
20 authorized board of directors may vote to increase the tax rate under this subchapter  
21 to 4%.

22 **SECTION 165.** 77.991 (2) of the statutes is amended to read:

23 77.991 (2) Sections 77.51 (4) (a), (b) 1., 2. and 4., (c) 1. to 3. and (d) and (14) (a)  
24 to (f), (j), and (k) and (15a), 77.52 (4), (6), (13), (14), and (18), 77.523 (2), 77.58 (1) to  
25 (5) and (7), 77.59, 77.60, 77.61 (2), (5), (8), (9), and (12) to (14), and 77.62, as they apply

2001 stats. 77.72

1 to the taxes under subch. III, apply to the tax under this subchapter. Sections 77.72  
 2 (1) and (2) (a) and 77.73, as they apply to the taxes under subch. V, apply to the tax  
 3 under this subchapter. The renter shall collect the tax under this subchapter from  
 4 the person to whom the passenger car is rented.

5 SECTION 166. 77.994 (1) (intro.) of the statutes is amended to read:

6 77.994 (1) (intro.) Except as provided in sub. (2), a municipality or a county all  
 7 of which is included in a premier resort area under s. 66.1113 may, by ordinance,  
 8 impose a tax at a rate of 0.5% of the gross receipts sales price from the sale, license,  
 9 lease, or rental in the municipality or county of goods or services that are taxable  
 10 under subch. III made by businesses that are classified in the standard industrial  
 11 classification manual, 1987 edition, published by the U.S. office of management and  
 12 budget, under the following industry numbers:

13 SECTION 167. 77.9941 (4) of the statutes is amended to read.

14 77.9941 (4) Section 77.59(9p)(b) 77.72  
 15 to the tax under this subchapter. Sections 77.72 (1) (2) (a) and (3) (a) 77.73,  
 16 77.74, 77.75, 77.76 (1), (2), and (4), 77.77 (1) and (2), 77.785 (1), and 77.79, as they  
 17 apply to the taxes under subch. V, apply to the tax under this subchapter. and ss.

18 SECTION 168. 77.995 (2) of the statutes is amended to read:

19 77.995 (2) There is imposed a fee at the rate of 3%, or 5% for the rental of  
 20 limousines, of the gross receipts sales price on the rental, but not for rental and not  
 21 for rental as a service or repair replacement vehicle of Type 1 automobiles, as defined  
 22 in s. 340.01 (4) (a); of mobile homes, as defined in s. 340.01 (29); of motor homes, as  
 23 defined in s. 340.01 (33m); and of camping trailers, as defined in s. 340.01 (6m) by  
 24 establishments primarily engaged in short-term rental of vehicles without drivers,

1 for a period of 30 days or less, unless the sale is exempt from the sales tax under s.  
2 77.54 (1), (4), (7) (a), (7m) or (9a).

3 **SECTION 169.** 77.9951 (2) of the statutes is amended to read:

4 77.9951 (2) Sections 77.51 (4) ~~(a), (b) 1., 2. and 4., (c) 1. to 3. and (d) and (14)~~  
5 ~~(a) to (f), (j), and (k) and (15a),~~ 77.52 (4), ~~(6),~~ (13), (14), and (18), 77.58 (1) to (5) and  
6 (7), 77.59, 77.60, 77.61 (2), (5), (8), (9), and (12) to (14), and 77.62, as they apply to  
7 the taxes under subch. III, apply to the fee under this subchapter. The renter shall  
8 collect the fee under this subchapter from the person to whom the vehicle is rented.

9 **SECTION 170.** 86.195 (3) (b) 3. of the statutes is amended to read:

10 86.195 (3) (b) 3. Fifty percent of the gross receipts of the business are from ~~meal,~~  
11 ~~feed, the sale of food product and beverage sales and food ingredients, as defined in~~  
12 ~~s. 77.51 (3t), that are taxable under s. 77.54 (20) (e) subch. III of ch. 77; and~~

13 **SECTION 171.** 218.0171 (2) (cq) of the statutes is amended to read:

14 218.0171 (2) (cq) Upon payment of a refund to a consumer under par. (b) 2. b.,  
15 the manufacturer shall provide to the consumer a written statement that specifies  
16 the trade-in amount previously applied under s. 77.51 (4) ~~(b) 3. or 3m. or (15) (b) 4.~~  
17 ~~or 4m. (12m) (b) 5. or 6. or (15a) (b) 5. or 6.~~ toward the sales price of the motor vehicle  
18 having the nonconformity and the date on which the manufacturer provided the  
19 refund.

20 **SECTION 9245. Appropriation changes; revenue.**

21 (1) ADMINISTRATIVE COSTS RELATED TO THE STREAMLINED SALES AND USE TAX  
22 AGREEMENT. In the schedule under section 20.005 (3) of the statutes for the  
23 appropriation to the department of revenue under section 20.566 (1) (a) of the  
24 statutes, as affected by the acts of 2003, the dollar amount is increased by \$25,000  
25 for fiscal year 2003-04 and the dollar amount is increased by \$25,000 for fiscal year

INSERT 62-19 ✓



2004-05 to pay for administrative costs related to the streamlined sales and use tax agreement.

**SECTION 9445. Effective dates; revenue.**

(1) IMPLEMENTING THE STREAMLINED SALES AND USE TAX AGREEMENT. The repeal of sections 77.51 (4), 77.51 (14) (d), 77.51 (14) (j), 77.51 (15), 77.52 (6), 77.52 (14) (a), 77.53 (4), 77.54 (14g), 77.54 (14s), 77.54 (20), 77.54 (20m), 77.54 (22), 77.54 (28), 77.54 (40), 77.61 (3), and 77.72 (2) of the statutes, the renumbering of sections 77.51 (1), 77.524 (1) (b), and 77.61 (1) (a) of the statutes, the renumbering and amendment of section 77.523 of the statutes, the consolidation, renumbering, and amendment of section 77.52 (14) (a) (intro.) and 1. and (b) of the statutes, the amendment of sections 66.0615 (1m) (f) 2., 70.111 (23), 73.03 (50) (d), 76.07 (4g) (b) 8., 77.51 (13) (o), 77.51 (14) (intro.), 77.51 (17), 77.51 (20), 77.51 (21), 77.52 (2) (intro.), 77.52 (2) (a) 10., 77.52 (7), 77.52 (13), 77.52 (15), 77.53 (1), 77.53 (9), 77.53 (9m), 77.53 (11), 77.53 (17), 77.53 (17m), 77.53 (17r) (a), 77.53 (18), 77.54 (1), 77.54 (2), 77.54 (2m), 77.54 (3) (a), 77.54 (3m) (intro.), 77.54 (4), 77.54 (5) (intro.), 77.54 (6) (intro.), 77.54 (9), 77.54 (9a) (intro.), 77.54 (10), 77.54 (11), 77.54 (12), 77.54 (13), 77.54 (14) (intro.), 77.54 (14) (a), 77.54 (14) (f), 77.54 (15), 77.54 (16), 77.54 (17), 77.54 (18), 77.54 (21), 77.54 (23m), 77.54 (25), 77.54 (26), 77.54 (26m), 77.54 (27), 77.54 (29), 77.54 (30) (a) (intro.), 77.54 (30) (c), 77.54 (31), 77.54 (32), 77.54 (33), 77.54 (34), 77.54 (35), 77.54 (36), 77.54 (37), 77.54 (38), 77.54 (39), 77.54 (41), 77.54 (42), 77.54 (43), 77.54 (44), 77.54 (45), 77.54 (46), 77.54 (46m), 77.55 (1) (intro.), 77.55 (2), 77.55 (2m), 77.55 (3), 77.56 (1), 77.58 (3) (b), 77.58 (6), 77.59 (9), 77.61 (1) (b), 77.61 (1) (c), 77.65 (2) (d), 77.70, 77.705, 77.706, 77.707 (1), 77.707 (2), 77.71 (1), 77.71 (2), 77.71 (3), 77.71 (4), 77.77 (1), 77.785 (1), 77.785 (2), 77.98, 77.981, 77.982 (2), 77.99, 77.991 (2), 77.994 (1) (intro.), 77.9941 (4), 77.995 (2),

1 77.9951 (2), 86.195 (3) (b) 3., and 218.0171 (2) (eq) of the statutes, the repeal and  
 2 recreation of section 77.51 (7) of the statutes, and the creation of sections 73.03 (50b),  
 3 73.03 (59), 77.51 (1b), 77.51 (1e), 77.51 (1n), 77.51 (1p), <sup>77.51 (2k),</sup> 77.51 (2m), 77.51 (3p), 77.51  
 4 (3pd), 77.51 (3pj), 77.51 (3pm), <sup>77.51 (3pp),</sup> 77.51 (3t), 77.51 (7m), 77.51 (10m), <sup>77.51 (10n),</sup> 77.51  
 5 (11m), 77.51 (12m), <sup>77.51 (12p),</sup> 77.51 (13s), 77.51 (15a), 77.51 (17w), 77.51 (22) (bm), 77.51 (21p),  
 6 <sup>77.52 (1) (b), 77.52 (1) (c),</sup> 77.52 (7b), 77.522, ~~77.523~~ <sup>77.523</sup> 77.54 (1b), 77.54 (1c), ~~77.54 (1d)~~ <sup>77.54 (1e)</sup>,  
 7 77.54 (20n), 77.54 (22b), <sup>77.58 (6m),</sup> 77.585, 77.59 (2m), 77.59 (9n), <sup>77.59 (9r),</sup> 77.60 (13), 77.61 (1) (ag),  
 8 77.61 (3m), 77.61 (5m), 77.61 (16), 77.63 (1) (am), and 77.66 of the statutes take effect  
 9 on ~~January 1, 2004~~ <sup>January 1, 2004</sup>

(END)

→ 77.59 (9p) (b),

the first day of the 3<sup>rd</sup> month  
 beginning after publication

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0646/P1ins  
JK:kmg:pg

Insert A ✓

This bill adopts the substantive provisions of the streamlined sales and use tax agreement (agreement). The agreement is intended to simplify and modernize sales and use tax administration for the states that enter into the agreement and to encourage out-of-state retailers to collect the state's sales and use taxes voluntarily. Under current federal law, generally, an out-of-state retailer who sells goods or services to customers in this state is not required to collect the sales tax or use tax imposed on such sales, if the retailer has no physical presence in this state. See *Quill v. North Dakota*, 504 U.S. 298; 112 S.Ct. 1904 (1992).

States that wish to enter into the agreement must adopt uniform definitions related to the administration of sales and use taxes and uniform policies related to sourcing sales of goods and services, bad debt allowances, refunds, and, to some extent, exemptions. Under the agreement, DOR may act jointly with other states that are signatories to the agreement to establish standards for certifying service providers and automated systems to aid out-of-state retailers with the collection of state sales and use taxes.

Under current law, "gross receipts" refers to the measure of the sales tax, and "sales price" refers to the measure of the use tax. Under the bill, "sales price" refers to the measure of the sales tax, and "purchase price" refers to the measure of the use tax.

The bill creates definitions for "alcohol beverages," "candy," "delivery charges," "dietary supplement," "food and food ingredients," "prepared food," and "soft drink."

The agreement provides that a state that is a signatory to the agreement may choose to tax or not tax all articles that are covered by one definition, but a state may not exempt from sales tax or use tax a particular item that is included in a definition. The members of the project working on the agreement approved a definition for "clothing." Therefore, in order to comply with the agreement, a state may either tax all clothing or exempt all clothing, but a state may not exempt certain items of clothing and tax others. This bill, therefore, eliminates the sales tax and use tax exemptions for cloth diapers and antiembolism hose.

This bill creates definitions for "durable medical equipment," "mobility-enhancing equipment," and "prosthetic device." Under the bill, the sale of such equipment and devices is exempt from the sales tax and the use tax.

Under the bill, generally, for purposes of determining which jurisdiction may impose a sales tax or use tax on a sale, if a purchaser receives a product at the seller's business location, the sale of that product occurs at the seller's business location. If a purchaser does not receive the product at a seller's business location, the sale occurs at the location where the purchaser receives the product. If the location of the sale cannot be so determined, the sale occurs at the purchaser's address, as indicated by the seller's business records. If the address cannot be determined from the business records, the sale occurs at the purchaser's address, as obtained during the consummation of the sale, including the address indicated on the purchaser's check. Finally, if the location of a sale cannot be determined in any other way, the sale of tangible personal property occurs at the location from which the tangible personal

property is shipped. Under the bill, if the item sold is a digital good or computer software, and the digital good or computer software is delivered electronically, the sale occurs at the location from which the digital good or computer software was first available for transmission by the seller.

Under the bill, generally, the sale of a telecommunications service occurs at a location that is determined consistent with the provisions of the federal Mobile Telecommunications Sourcing Act.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

Insert 4 - 19 ✓

1 SECTION 1. 77.51 (2k) of the statutes is created to read:

2 77.51 (2k) "Delivered electronically" means delivered to a purchaser by means  
3 other than by tangible storage media.

Insert 6 - 18 ✓

4 SECTION 2. 77.51 (3pp) of the statutes is created to read:

5 77.51 (3pp) "Electronic" means relating to technology having electrical,  
6 digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

Insert 9 - 2 ✓

7 <sup>5</sup>  
8 6. Eggs, fish, meat, and poultry, and foods containing any of them in raw form,  
9 that require cooking by the consumer, as recommended by the food and drug  
10 administration in chapter 3, part 401.11 of its food code to prevent food-borne  
11 illnesses.

11 SECTION 3. 77.51 (10n) of the statutes is created to read:

12 77.51 (10n) "Prescription" means an order, formula, or recipe that is issued by  
13 any oral, written, electronic, or other means of transmission and by a person who is  
14 authorized by the laws of this state to issue such an order, formula, or recipe.

15 SECTION 4. 77.51 (10r) of the statutes is created to read:

1 77.51 (10r) "Prewritten computer software" means <sup>any</sup> of the following:

2 (a) Computer software that is not designed and developed by the author or  
3 creator of the software according to a specific purchaser's specifications. "Prewritten  
4 computer software" includes all of the following:

5 (b) Computer software upgrades that are not designed and developed by the  
6 author or creator of the software according to a specific purchaser's specifications.

7 (c) Computer software that is designed and developed by the author or creator  
8 of the software according to a specific purchaser's specifications, <sup>and</sup> that is sold to  
9 another purchaser.

10 (d) Any combination of computer software under pars. (a) to (c), including any  
11 combination with any portion of such software.

12 (e) Computer software as described under pars. (a) to (d), and any portion of  
13 such software, that is modified or enhanced by any degree to a specific purchaser's  
14 specifications, unless a reasonable, separately indicated charge or an invoice or other  
15 statement of the price of such modification or enhancement is provided to the  
16 purchaser.

Insert 11 - 11 ✓

17 7. Thirty-five percent of the purchase price, excluding trade-ins, of a new  
18 mobile home, as defined in s. 340.01 (29), <sup>✓</sup> that is a primary housing unit or of a new  
19 mobile home, as defined in s. 340.01 (29), that is transported in 2 unattached sections  
20 if the total size of the combined sections, not including additions and attachments,  
21 is at least 984 square feet measured when the sections are ready for transport.

22 8. At the retailer's option; except that after the retailer chooses an option the  
23 retailer may not use the other option for other sales without the department's written

1 approval; either 35% of the purchase price of a manufactured building, as defined in  
2 s. 101.71 (6), or an amount equal to the purchase price of the manufactured building  
3 minus the cost of materials that become an ingredient or component part of the  
4 building.

5 **SECTION 5.** 77.51 (12p) of the statutes is created to read:

6 77.51 (12p) "Purchaser" means a person to whom a sale of personal property  
7 is made or to whom a service is furnished.

**Insert 14 - 3**

8 7. Thirty-five percent of the sales price, excluding trade-ins, of a new mobile  
9 home, as defined in s. 340.01 (29), that is a primary housing unit or of a new mobile  
10 home, as defined in s. 340.01 (29), that is transported in 2 unattached sections if the  
11 total size of the combined sections, not including additions and attachments, is at  
12 least 984 square feet measured when the sections are ready for transport.

13 8. At the retailer's option; except that after the retailer chooses an option the  
14 retailer may not use the other option for other sales without the department's written  
15 approval; either 35% of the sales price of a manufactured building, as defined in s.  
16 101.71 (6), or an amount equal to the sales price of the manufactured building minus  
17 the cost of materials that become an ingredient or component part of the building.

**Insert 15 - 19**

18 **SECTION 6.** 77.52 (1) (b) of the statutes is created to read:

19 77.52 (1) (b) For the privilege of selling at retail coins and stamps of the United  
20 States that are sold or traded as collectors' items above their face value, a tax is  
21 imposed on all retailers at the rate of 5% of the sales price from the sale of such coins  
22 and stamps.

1           SECTION 7. 77.52 (1) (c) of the statutes is created to read:

2           77.52 (1) (c) For the privilege of leasing property that is affixed to real property,  
3 a tax is imposed on all retailers at the rate of 5% of the sales price from the lease of  
4 such property, if the lessor has the right to remove the leased property upon breach  
5 or termination of the lease agreement, unless the lessor of the leased property is also  
6 the lessor of the real property to which the leased property is affixed.

                  Insert 19 - 20

7           SECTION 8. 77.52 (13) of the statutes is amended to read:

8           77.52 (13) For the purpose of the proper administration of this section and to  
9 prevent evasion of the sales tax it shall be presumed that all receipts are subject to  
10 the tax until the contrary is established. The burden of proving that a sale of tangible  
11 personal property or services is not a taxable sale at retail is upon the person who  
12 makes the sale unless that person takes from the purchaser a certificate, or obtains  
13 from the purchaser any information that is prescribed by rule by department, to the  
14 effect that the property or service is purchased for resale or is otherwise exempt;,  
15 except that no certificate is required for sales of cattle, sheep, goats, and pigs that are  
16 ~~sold at a livestock market, as defined in s. 95.68 (1) (c) [s. 95.68 (1) (ag)], and no~~  
17 ~~certificate is required for sales of commodities, as defined in 7 USC 2, that are~~  
18 ~~consigned for sale in a warehouse in or from which the commodity is deliverable on~~  
19 ~~a contract for future delivery subject to the rules of a commodity market regulated~~  
20 ~~by the U.S. commodity futures trading commission if upon the sale the commodity~~  
21 ~~is not removed from the warehouse~~ the sale of tangible personal property that is  
22 exempt under s. 77.54 (7), (11), (14), (15), (17), (20n), (21), (22b), (30), (32), (42), and  
23 (44). This subsection does not apply to candy, soft drinks, and prepared food; or to

- 1 disposable products that are transferred with candy, soft drinks, and prepared food;  
2 that a restaurant provides to the restaurant's employees during the work hours of  
3 the employees.

NOTE: NOTE: The bracketed language indicates the correct cross-reference. Corrective legislation is pending. NOTE:

History: 1973 c. 156; 1975 c. 39; 1977 c. 29, 142, 418; 1979 c. 174, 221; 1981 c. 20, 317; 1983 a. 2, 27; 1983 a. 189 ss. 99, 103, 107, 329 (12); 1983 a. 341, 510, 544; 1985 a. 29, 149; 1987 a. 27, 399; 1989 a. 31, 335; 1991 a. 39, 316; 1993 a. 112, 213, 308, 437; 1995 a. 27, 225, 351; 1997 a. 27, 237, 291; 1999 a. 9, 83; 1999 a. 150 s. 672; 2001 a. 16, 104, 109.

Insert 24 - 19 ✓

- 4 5. A seller who receives a multiple-points-of-use exemption form under this  
5 paragraph is relieved from liability for collecting the tax imposed under s. 77.53 (1)  
6 on purchases related to the multiple-points-of-use exemption form.

- 7 (e) A sale or purchase involving transfer of ownership of property is completed  
8 at the time when possession is transferred by the seller or the seller's agent to the  
9 purchaser or the purchaser's agent, except that for purposes of this subsection a  
10 common carrier or the U.S. postal service shall be deemed the agent of the seller,  
11 regardless of any f.o.b. point and regardless of the method by which freight or postage  
12 is paid.

- 13 (2) LEASE OR RENTAL. (a) Except as provided in pars. (b) and (c), with regards  
14 to the first or only payment on the lease or rental, the lease or rental of tangible  
15 personal property occurs at the location determined under sub. (1) (b) 1. If the  
16 property is moved from the place where the property was initially delivered, the  
17 subsequent periodic payments on the lease or rental occur at the property's primary  
18 location as indicated by an address for the property that is provided by the lessee and  
19 that is available to the lessor in records that the lessor maintains in the ordinary  
20 course of the lessor's business, if the use of such an address does not constitute bad  
21 faith. The location of a lease or rental as determined under this paragraph shall not  
22 be altered by any intermittent use of the property at different locations.



(b) The lease or rental of motor vehicles, ~~semi~~trailers, and aircraft, that are not transportation equipment, occurs at the primary location of such motor vehicles, ~~semi~~trailers, or aircraft as indicated by an address for the property that is provided by the lessee and that is available to the lessor in records that the lessor maintains in the ordinary course of the lessor's business, if the use of such an address does not constitute bad faith. The location of a lease or rental as determined under this paragraph shall not be altered by any intermittent use of the property at different locations.

(c) The lease or rental of transportation equipment occurs at the location determined under sub. (1) (b) 1. ✓

Insert 31 - 21 ✓

SECTION 9. 77.53 (10) of the statutes is amended to read:

77.53 (10) For the purpose of the proper administration of this section and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property or taxable services sold by any person for delivery in this state is sold for storage, use, or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless that person takes from the purchaser a certificate, or obtains from the purchaser any information that is prescribed by rule by department, to the effect that the property or taxable service is purchased for resale, or otherwise exempt from the tax, except that no certificate is required for sales of cattle, sheep, goats, and pigs that are sold at a livestock market, as defined in s. 95.68 (1) (e) ~~s. 95.68 (1) (e)~~, and no certificate is required for sales of commodities, as defined in 7 USC 2, that are consigned for sale in a warehouse in or from which the commodity is deliverable on

1 ~~a contract for future delivery subject to the rules of a commodity market regulated~~  
2 ~~by the U.S. commodity futures trading commission if upon the sale the commodity~~  
3 ~~is not removed from the warehouse~~ the sale of tangible personal property that is  
4 exempt under s. 77.54 (7), (11), (14), (15), (17), (20n), (21), (22b), (30), (32), (42), and  
5 (44). This subsection does not apply to candy, soft drinks, and prepared food; or to  
6 disposable products that are transferred with candy, soft drinks, and prepared food;  
7 that a restaurant provides to the restaurant's employees during the work hours of  
8 the employees.

NOTE: NOTE: The bracketed language indicates the correct cross-reference. Corrective legislation is pending. NOTE:  
History: 1971 c. 125, 211; 1977 c. 29, 418; 1979 c. 1, 174; 1981 c. 317; 1983 a. 2; 1985 a. 29; 1987 a. 27, 268, 399; 1991 a. 39, 316; 1993 a. 16, 112; 1995 a. 27, 209; 1997  
a. 27, 41, 237; 1999 a. 31; 2001 a. 109.

Insert 32 - 10 ✓

9 SECTION 10. 77.53 (16) of the statutes is amended to read:

10 77.53 (16) If the purchase, rental or lease of tangible personal property or  
11 service subject to the tax imposed by this section was subject to a sales tax by another  
12 state in which the purchase was made, the amount of sales tax paid the other state  
13 shall be applied as a credit against and deducted from the tax, to the extent thereof,  
14 imposed by this section, except no credit may be applied against and deducted from  
15 a sales tax paid on the purchase of direct mail, if the direct mail purchaser did not  
16 provide to the seller a direct pay permit, a direct mail form, or other information that  
17 indicates the appropriate taxing jurisdiction to which the direct mail is delivered to  
18 the ultimate recipients. In this subsection "sales tax" includes a use or excise tax  
19 imposed on the use of tangible personal property or taxable service by the state in  
20 which the sale occurred and "state" includes the District of Columbia but does not

- 1 include the commonwealth of Puerto Rico or the several territories organized by  
2 congress.

History: 1971 c. 125, 211; 1977 c. 29, 418; 1979 c. 1, 174; 1981 c. 317; 1983 a. 2; 1985 a. 29; 1987 a. 27, 268, 399; 1991 a. 39, 316; 1993 a. 16, 112; 1995 a. 27, 209; 1997 a. 27, 41, 237; 1999 a. 31; 2001 a. 109.

Insert 36 - 9

- 3 SECTION 11. 77.54 (8) of the statutes is amended to read:

- 4 77.54 (8) Charges for ~~interest, financing or~~ insurance where such charges are  
5 separately set forth upon the invoice given by the seller to the purchaser.

History: 1971 c. 64, 154, 215, 311; 1973 c. 90, 156, 240; 1975 c. 39, 96, 102, 146, 200; 1977 c. 29; 1977 c. 83 ss. 13, 26; 1977 c. 250, 368, 418; 1979 c. 1, 34, 87, 174; 1981 c. 20; 1981 c. 79 s. 18; 1981 c. 96 s. 67; 1981 c. 264; 1981 c. 282 s. 47; 1981 c. 317; 1983 a. 27 ss. 1284d to 1284np, 2202 (38); 1983 a. 189 ss. 101, 106, 329 (5), (12), (13); 1983 a. 192, 287, 405, 426, 498, 510, 538, 544; 1985 a. 29, 149, 332; 1987 a. 27; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31, 238, 270, 335, 359; 1991 a. 37, 39, 269, 316; 1993 a. 16, 263, 332; 1995 a. 27, 125, 225, 227; 1997 a. 27, 35, 41, 184, 237, 291; 1999 a. 9, 65, 83; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16, 103, 109.

Insert 37 - 20

- 6 SECTION 12. 77.54 (14) (b) of the statutes is amended to read:

- 7 77.54 (14) (b) Furnished by a licensed physician, surgeon, podiatrist, or dentist  
8 to a patient who is a human being for treatment of the patient.

History: 1971 c. 64, 154, 215, 311; 1973 c. 90, 156, 240; 1975 c. 39, 96, 102, 146, 200; 1977 c. 29; 1977 c. 83 ss. 13, 26; 1977 c. 250, 368, 418; 1979 c. 1, 34, 87, 174; 1981 c. 20; 1981 c. 79 s. 18; 1981 c. 96 s. 67; 1981 c. 264; 1981 c. 282 s. 47; 1981 c. 317; 1983 a. 27 ss. 1284d to 1284np, 2202 (38); 1983 a. 189 ss. 101, 106, 329 (5), (12), (13); 1983 a. 192, 287, 405, 426, 498, 510, 538, 544; 1985 a. 29, 149, 332; 1987 a. 27; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31, 238, 270, 335, 359; 1991 a. 37, 39, 269, 316; 1993 a. 16, 263, 332; 1995 a. 27, 125, 225, 227; 1997 a. 27, 35, 41, 184, 237, 291; 1999 a. 9, 65, 83; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16, 103, 109.

Insert 39 - 20

- 9 (b) The sales price from the sale of and the storage, use, or other consumption  
10 of prepared food sold by hospitals, sanatoriums, nursing homes, retirement homes,  
11 community-based residential facilities, as defined in s. 50.01 (1g), or day care centers  
12 registered under ch. 48, including prepared food that is sold to the elderly or  
13 handicapped by persons providing mobile meals on wheels. In this subdivision,  
14 "retirement home" means a nonprofit residential facility where 3 or more unrelated  
15 adults or their spouses have their principal residence and where support services,  
16 including meals from a common kitchen, are available to residents.
- 17 (c) The sales price from the sale of and the storage, use, or other consumption  
18 of food and food ingredients, furnished in accordance with any contract or agreement

✓✓✓  
1 or paid for to such institution through the use of an account of such institution, by  
2 a public or private institution of higher education to an undergraduate student, a  
3 graduate student, or a student enrolled in a professional school if the student is  
4 enrolled for credit at that institution and if the food and food ingredients are  
5 consumed by that student.

6 (d) The sales price from the sale of and the storage, use, or other consumption  
7 of food and food ingredients furnished to a national football league team under a  
8 contract or agreement.

Insert 46 - 24 ✓

9 SECTION 13. 77.57 ✓ of the statutes is amended to read:

10 77.57 Liability of purchaser. If a purchaser certifies in writing to a seller  
11 that the property purchased will be used in a manner or for a purpose entitling the  
12 seller to regard the gross receipts from the sale as exempted by this subchapter from  
13 the computation of the amount of the sales tax and uses the property in some other  
14 manner or for some other purpose, the purchaser is liable for payment of the sales  
15 tax. The tax shall be measured by the sales price of the property to the purchaser,  
16 but if the taxable use first occurs more than 6 months after the sale to the purchaser,  
17 the purchaser may use as the measure of the tax either that sales price or the fair  
18 market value of the property at the time the taxable use first occurs. This subsection  
19 does not apply to candy, soft drinks, and prepared food; or to disposable products that  
20 are transferred with candy, soft drinks, and prepared food; that a restaurant  
21 provides to the restaurant's employees during the work hours of the employees.

History: 1983 a. 405.

Insert 47 - 16 ✓

22 SECTION 14. 77.58 (6m) ✓ of the statutes is created to read:

1           77.58 (6m) The department may, in cases where it is satisfied that an undue  
2 hardship would otherwise result, permit the reporting of a sales price or purchase  
3 price on some basis other than the accrual basis.

**Insert 48 - 14** ✓

4           (2) A seller may claim as a deduction on a return under s. 77.58 ✓ the amount  
5 of any bad debt that the seller writes off as uncollectible in the seller's books and  
6 records and that is eligible to be deducted as bad debt for federal income tax purposes,  
7 regardless of whether the seller is required to file a federal income tax return. A  
8 seller who claims a deduction under this subsection shall claim the deduction on the  
9 return under s. 77.58 that is submitted for the period in which the seller writes off  
10 the amount of the deduction as uncollectible in the seller's books and records and in  
11 which such amount is eligible to be deducted as bad debt for federal income tax  
12 purposes. If the seller subsequently collects in whole or in part any bad debt for  
13 which a deduction is claimed under this subsection, the seller shall include the  
14 amount collected in the return filed for the period in which the amount is collected  
15 and shall pay the tax with the return.

**Insert 49 - 6** ✓

16           (6) If a lessor of tangible personal property has reimbursed the vendor for the  
17 sales tax on the sale of the property by the vendor to the lessor, the tax due from the  
18 lessor on the rental receipts may be offset by a credit equal to the tax otherwise due  
19 on the rental receipts from the property for the reporting period. The credit shall  
20 expire when the cumulative rental receipts equal the sales price upon which the  
21 vendor paid sales taxes to this state.

1 (7) If a purchaser of tangible personal property has reimbursed the vendor of  
2 the property for the sales tax on the sale and subsequently, before making any use  
3 of the property other than retention, demonstration, or display while holding it for  
4 sale or rental, makes a taxable sale of the property, the tax due on the taxable sale  
5 may be offset by the tax reimbursed.

6 (8) A seller may claim a deduction on any part of the sales price or purchase  
7 price that the seller refunds in cash or credit as a result of returned property or  
8 adjustments in the sales price or purchase price after the sale has been completed,  
9 if the seller has included the refunded price in a prior return made by the seller and  
10 has paid the tax on such price, and if the seller has returned to the purchaser in cash  
11 or in credit all tax previously paid by the purchaser on the amount of the refund at  
12 the time of the purchase. A deduction under this subsection shall be claimed on the  
13 return for the period in which the refund is paid.

Insert 50 - 4 ✓

14 SECTION 15. 77.59 (9r) of the statutes is created to read:

15 77.59 (9r) With regard to a purchaser's request for a refund under this section,  
16 a seller is presumed to have reasonable business practices if the seller uses a certified  
17 service provider, a certified automated system, as defined in s. 77.524 (1) (a), or a  
18 proprietary system certified by the department to collect the taxes imposed under  
19 this subchapter or if the seller has collected and remitted to the department all taxes  
20 imposed under this subchapter, less any deductions, credits, or allowances.

Insert 62 - 19 ✓

21 SECTION 9145. Nonstatutory provisions; revenue.

1 (1) THE STREAMLINED SALES AND USE TAX AGREEMENT. The department of revenue  
2 shall notify the revisor of statutes of the effective date of this state's participation in  
3 the streamlined sales and use tax agreement, as described ~~under~~ <sup>in</sup> section 77.65 of the  
4 statutes.

*no later than 30 days after the  
such effective date is determined*

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0646/P2insKA  
...kmg:kmg

**INSERT "59-18 KA"**

the sales tax under s. 77.54 (1), 2001 stats., s. 77.54 (4), 2001 stats., s. 77.54 (7) (a),  
2001 stats., s. 77.54 (7m), 2001 stats., s. 77.54 (9), 2001 stats., s. 77.54 (9a), 2001  
stats., or s. 77.54 (20) (c) 5., 2001 stats.